

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THOMAS W. SAWYER, #224964,

Plaintiff,

v.

Case No. 13-11011

PAUL KLEE,

HON. TERRENCE G. BERG
HON. CHARLES E. BINDER

Defendants.

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**ORDER DISMISSING ACTION UNDER
FEDERAL RULE OF CIVIL PROCEDURE 41(A)(1)**

On March 6, 2013, petitioner Thomas W. Sawyer filed a pro se habeas corpus petition challenging his 1992 Ingham County convictions for first-degree criminal sexual conduct, kidnapping, and possession of a firearm during the commission of a felony. To date, respondent Paul Klee has not filed an answer to the petition or a motion for summary judgment. On April 2, 2013, Mr. Sawyer filed a letter with the Court asking the Court to “take whatever appropriate administrative action [is] necessary to cancel this submission” (Doc. 3.)

The Court construes Mr. Sawyer’s letter as a notice of voluntary dismissal under Federal Rule of Civil Procedure 41(a)(1)(A)(i). Because (1) the letter did not indicate that the dismissal was to be with prejudice, and (2) the Court has not found any records indicating that Mr. Sawyer previously dismissed an action based on the same claim, by rule the dismissal is without prejudice. Fed. R. Civ. P. 41(a)(1)(B).

The Court hereby grants Plaintiff's request to dismiss the action. Accordingly, the Court ORDERS that the petition is voluntarily DISMISSED without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i).

s/Terrence G. Berg
TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE

Dated: April 8, 2013

Certificate of Service

I hereby certify that this Order was electronically submitted on April 8, 2013, using the CM/ECF system, which will send notification to each party.

By: s/A. Chubb
Case Manager